

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 6-8, 10-12, 14-16, 18-20, 22-24, 26-28, 30-32 are cancelled. Claims 1-5, 9, 13, 17, 21, 25, 29, and 33-37 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

In the Office Action, the Examiner objected to claims 1, 17, 33, 34, and 37, and the Examiner rejected claim 36 under 35 U.S.C. § 112, second paragraph. The claims have been amended to correct the informalities. Applicant therefore submits that the Examiner's objection is overcome and that claim 36 is in full compliance with the requirements of 35 U.S.C. § 112, second paragraph.

Turning now to the art rejections, claims 1-5, 9, 13, 17, 21, 25, 29, 34, 35, and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamashita (U.S. Patent No. 5,404,557) in view of Fukuda (U.S. Patent No. 6,546,300) and in further view of Metz (U.S. Patent No. 5,978,855). Applicant submits that the claims are patentably distinguishable over the cited references.

The Examiner contends that Yamashita, Fukuda and Metz are analogous art "since they teach data movement and manipulation." However, using the Examiner's reasoning, every reference that teaches some form of "data movement and manipulation" would be considered analogous art. A search of the USPTO Patent Full-Text and Image Database indicates, for example, that 396,242 U.S. Patents and 256,002 published U.S. Patent Applications presently contain the terms "data" and "move". Clearly, every reference that teaches "data movement and manipulation" could not be considered analogous art and therefore could not all be considered to be within a single field of endeavor.

Actually Yamashita, Fukuda, and Metz are directed to different field of endeavors. Yamashita is directed to data processors having plural instruction execution parts for synchronized parallel processing (See Yamashita, Abstract 11.1-2, and col.1 11.8-11), Fukuda is directed to production/manufacturing planning systems (See Fukuda, Abstract 1.1, and col.1 11.7-8) and Metz is directed to programmable set-top terminals used in digital video program distribution networks (See Metz, Abstract 11.1-2, and col.1 11.20-25). Moreover, and each of these references is directed to a different field of endeavor than that of the present application. Claim 1 of the present application, for example, relates to:

An emulation apparatus, operable within a first information processing apparatus, for enabling the first information processing apparatus to better execute a software program that was originally intended for execution by a second information processing apparatus, the first information processing apparatus having a processing capability that is different than a processing capability of the second information processing apparatus[.] (Emphasis added.)

None of the cited references is concerned with enabling a first information processing apparatus to better execute a software program that was originally intended for execution by a second information processing apparatus, and though Yamashita is concerned with parallel processing, none of the cited references is concerned with a first information processing apparatus that has a processing capability that is different than a processing capability of the second information processing apparatus.

Further, as will be shown herein, none of the cited references is reasonably pertinent to the problem addressed by the present invention. It follows, that neither Yamashita, Fukuda, nor Metz is analogous prior art for the purpose of analyzing the present invention. (See MPEP § 2141.01(a).)

The Examiner nevertheless asserts that Yamashita teaches an emulation apparatus and refers to column 17, lines 52-54. The citation which the Examiner relies on is one of several in the present Office Action in which the Examiner extracts a word or phrase from a reference, tailors its meaning to allegedly provide a particular teaching, and improperly ignores the actual context in which the word or phrase is used as well as its meaning when used in that context. Yamashita uses the term "emulation" in an example where (i) the execution of an instruction by hardware has caused an exception, and (ii) the instruction is then converted by the hardware to another type of instruction that can be handled by a software program. Namely, Yamashita describes hardware that enables emulation of that hardware so that software can execute an instruction originally intended for that hardware. (See col.17 ll.48-54.) Yamashita does not disclose or suggest an emulation apparatus for enabling a first information processing apparatus to better execute a software program that was originally intended for execution by a second information processing apparatus.

The Examiner also incorrectly asserts that Yamashita teaches a first information processing apparatus and a second information processing apparatus and refers to column 2, lines 16-18. However, the cited section of Yamashita merely identifies two pieces of information as "first information" and "second information" and is not at all concerned with the manner in which the two pieces of information are processed. Yamashita thereafter describes that first information and second information are included in every instruction executed by an instruction execution part of the data processor so that the first information and the second information in the same instruction are processed by the same execution part. (See col.2 ll.16-22 and 45-49.) Hence, Yamashita does not disclose or suggest that the first information is processed by a first

apparatus whereas the second information is processed by a second apparatus, and therefore Yamashita neither discloses nor suggests a first information processing apparatus and neither discloses nor suggests a second information processing apparatus. Neither Fukuda nor Metz remedies the above deficiencies of Yamashita.

Further, the Examiner erroneously asserts that Fukuda teaches a software program requesting a change of a processing capability. The Examiner relies on column 9, line 66 which recites that "...[part of the simulated] result data (the process capability, and so forth) are delivered [to the production planning computer]...." Not only is there no teaching or suggestion of a request for changing processing capability in the sentence fragment cited by the Examiner, the context of the cited section is again completely ignored. Specifically, Fukuda describes a computer that simulates delivery quantity in a manufacturing line by changing various conditions, such as the product mix or the number of apparatuses, to obtain simulated result data. (See col.9 11.49-54 and 58-61.) That is, Fukuda describes changing the data inputted into the computer to determine the change in processing capabilities of a manufacturing line. Fukuda does not disclose or suggest changing the processing capability of a computer, and therefore Fukuda does not disclose or suggest determining whether a software program has requested a change of the processing capability of an information processing apparatus. Neither Yamashita nor Metz addresses the deficiencies of Fukuda.

Therefore, neither Yamashita, Fukuda, nor Metz whether taken alone or in combination, discloses or suggests:

determining means for determining, when the software program is being executed by the first information processing apparatus, whether the software program has requested a change of the processing

capability of the first information processing apparatus;

as called for in claim 1. (Emphasis added.)

The Examiner also erroneously asserts that Metz teaches changing a value of a particular processing parameter when the determining means determines that the software program has requested a change of processing capability. The Examiner relies on column 40, line 2 which merely recites "...[resi]dent CATV software to change channels, and display audio/[video]...." The section relied-on by the Examiner is not at all concerned with changing the processing capability of an information processing apparatus. Instead, Metz describes function calls for calling predetermined network communication functions of software resident in the digital set-top terminal, such as a channel change function call or a function call for establishing a two way low speed data communication. (See col.6 ll.8-16.) The relied-on section of Metz, in particular, is concerned with a dla_channelchange() function call that requests the resident CATV software to change channels and thereby change the display audio/video. Namely, Metz describes a function call that changes the signals inputted to the set-top terminal device so that the output is changed. (See col.40 ll.1-3.) Metz does not disclose or suggest changing a value of a particular processing parameter when it is determined that a software program has requested a change of a processing capability. Neither Yamashita nor Fukuda remedies the above deficiencies of Metz.

Additionally, as described above, the cited sections of Yamashita do not disclose or suggest a first information processing apparatus and a second information processing apparatus. Neither Fukuda nor Metz addresses such deficiencies.

Also, as described above, Fukuda does not disclose or suggest changing the value of a particular processing parameter to adjust the processing capability of an information processing

apparatus. Neither Yamashita nor Metz remedies the deficiencies of Fukuda.

Therefore, neither Yamashita, Fukuda, nor Metz, whether taken alone or in combination, discloses or suggests:

adjusting means for changing, when said determining means determines that the software program has requested the change of the processing capability, a value of a particular processing parameter in the first information processing apparatus to a value more compatible with execution of the software program based on a stored change parameter associated with the software program, the change in the value of the particular processing parameter thereby adjusting the processing capability of the first information processing apparatus to emulate the processing capability of the second information processing apparatus[,]

as defined in claim 1. (Emphasis added.)

It follows that claim 1 is patentably distinct and unobvious over the cited reference.

Claims 2-5, 9, and 13 depend from claim 1, and therefore each is distinguishable over the cited art for at least the same reasons.

Independent claim 17 includes limitations similar to those defined in claim 1. Therefore, claim 17 is patentably distinct and unobvious over the asserted combination of Yamashita, Fukuda, and Metz at least for the reasons set out above regarding claim 1.

Additionally regarding claim 17, the relied-on sections of Yamashita describe that when an exception occurs while the hardware is executing an instruction, the hardware converts the instruction into another instruction that is suitable for execution by a software program, as explained above. Therefore, the relied on sections of Yamashita do not disclose or suggest changing a particular functional configuration, do not disclose or suggest changing a functional configuration of at least part of a first information processing

apparatus, and do not disclose or suggest changing such a functional configuration to a predetermined functional configuration more compatible with execution of a software program. Neither Fukuda nor Metz addresses these deficiencies.

Claims 21, 25, and 29 depend from claim 17, and each of these claims is therefore distinguishable over the cited art for at least the same reasons.

Independent claims 34, 35, and 37 each include limitations recited in claim 1. Therefore, each of claims 34, 35, and 37 is patentably distinct and unobvious over Yamashita, Fukuda and Metz for at least the same reasons.

The Examiner also rejected claims 33 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Yamashita in view of Fukuda.

As described above, the sections of Yamashita and Fukuda that the Examiner relies on in rejecting claim 1 do not disclose or suggest the features that the Examiner contends are taught therein. The Examiner also relies on the same sections of references in rejecting claim 33 and 36, and therefore claims 33 and 36 are each similarly distinguishable over the cited references.

Accordingly, the withdrawal of the Examiner's objection and the withdrawal of the rejections under 35 U.S.C. §§ 103(a) and 112, second paragraph, are respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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